



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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June 2, 2015

Mr. Robert A. Gaddie #852477
Plainfield Correctional Facility
727 Moon Road
Plainfield, Indiana 46168

Re: Formal Complaint 15-FC-156; Alleged Violation of the Access to Public Records Act by the Indiana Parole Board

Dear Mr. Gaddie,

This advisory opinion is in response to your formal complaint alleging the Indiana Parole Board ("Board") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Board has not responded to your complaint despite an invitation by this office to do so on May 12, 2015. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on May 4, 2015.

BACKGROUND

Your complaint dated April 23, 2015 alleges the Indiana Parole Board violated the Access to Public Records Act by denying you access to requested information.

On April 15, 2015, you submitted a request to the Board seeking a copy of recordings of your parole hearing held at the Plainfield Correctional Facility on April 8, 2015. You also requested a copy of any notes or other documents used at the hearing. On April 22, 2015, you received a letter from the board informing you the notes and other documents you requested will be provided, but a video recording would not be, because of an unspecified statute.

ANALYSIS

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." See Ind. Code § 5-14-3-1. Indiana Parole Board is a public agency for the purposes of the APRA.

See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the Board's public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

This Office is not familiar with the Indiana Department of Correction statute referenced in the April 22, 2015 Indiana Parole Board denial of records correspondence addressed to you. Generally, records of proceedings are public record not subject to any non-disclosure exemptions. The Parole Board has not responded to your formal complaint. Without the benefit of a response as required by Ind. Code § 5-14-5-5, I cannot determine why the Board withheld the recording.

Because the Board has not provided a justification for withholding the records at issue here, it is my opinion it has failed to sustain its burden. If the Board cannot justify withholding the records under the APRA, I encourage the Board to release the records to you.

CONCLUSION

For the foregoing reasons, it is the Opinion of the Public Access Counselor the Indiana Parole Board has violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'LHB', with a long, sweeping underline.

Luke H. Britt
Public Access Counselor